

REMARKS

Reconsideration of the above referenced application in view of the enclosed amendments and remarks is requested. Claims 33 and 34 have been added to recite additional features of the claimed embodiments.

ELECTION:

The Examiner has noted that the application contains claims directed to two patentably distinct species, namely:

Group I. Claims 1-22, drawn to a system comprising a blade device; and chassis management logic, the chassis management logic to determine whether one or more capabilities associated with the blade device match a capability policy.

Group II. Claims 23-32, drawn to a method comprising: registering one or more capabilities with a central repository; determining if a capability authorization has been received within a pre-defined timeout interval; if the capability authorization has been received within the timeout interval, performing boot processing; and if the capability authorization has not been received within the timeout interval, declining to perform the boot processing.

In response to the restriction requirement, Applicants hereby elect Group I comprising Claims 1 to 22, with traverse. Newly added Claims 33 and 34 should be included in Group I, as being dependent on Claim 1.

First, Applicants respectfully submit that the restriction is improper. Second, even assuming the restriction is made final, Applicants believe that they are entitled to examination of additional claims. Specifically, Claims 33 and 34 are added and dependent on Claim 1 (Group I). It should be further noted, that Claim 34 is similar in scope and features to Claim 23. Therefore, any search for features in Group I would be co-extensive with a search for Group II.

Without admitting or denying the foundation for Examiner's assertion that the two groups are patently distinct, Applicants stress that the Examiner has failed to meet the burden of the test for requiring a restriction. The Examiner readily admits that the two groups are searchable in the same Class. The Examiner also fails to provide sufficient reason for restricting the two groups other than a recitation of the claim language of two independent claims. Both Groups are directed toward embodiments of an invention that uses capabilities associated with a blade device, and a determination of whether the capabilities either match a policy or authorization. It is suggested that a search for the elements of one group would encompass a search for elements recited in the other group.

Applicants respectfully submit that the restriction is improper. First, the Examiner has provided little explanation in support of the restriction requirement beyond generic boilerplate paragraphs. As set forth in MPEP § 808, ***"Every requirement to restrict has two aspects:***

(A) the reasons (as distinguished from the mere statement of conclusion) why the inventions as claimed are either independent or distinct; and

(B) the reasons for insisting upon restriction therebetween..."

Further, for a restriction requirement to be proper according to MPEP § 803, citing MPEP § 806.04 and 806.05, under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. However, ***"if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."*** MPEP § 803. Here, Applicants note no substantial distinctions between Groups I and II which would necessitate a serious burden. Indeed, both groups are related to capabilities associated with blade servers, and the difference between the groups substantially being the method of determination of either authorization or policy matching.

Additionally, it is not seen how one could limit search terms to search for only one species of the claimed invention without finding relevant prior art in all of the species of embodiments, if such art exists. Thus, no serious burden exists for the Examiner.

Further, the burden on the Applicants is believed to outweigh any burden there may be on the Examiner to search various embodiments of the invention, particularly since the searches would be co-extensive. Restriction would be unduly burdensome to Applicants, not only in time, but also in money, particularly considering the current filing and maintenance fee schedules.

Considering these factors, it is respectfully submitted that the restriction requirement is improper since Groups I and II are indeed related. Moreover, the Examiner is respectfully requested to weigh the great burden a restriction would have on Applicants and withdrawal the restriction requirement.

In view of the foregoing, it requested that restriction requirement be reconsidered, and examination on the merits to proceed. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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